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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,705	11/08/2005	Takao Kasai	0445-0350PUS1	7744

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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05/09/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/530,705

Applicant(s)

KASAI, TAKAO

Examiner

Jacqueline F. Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/1/07 Copy</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III USPN 5484430 in view of Datta et al. USPN 6315765.

As to claims 1 and 3-5, Osborn discloses an absorbent article capable of being used as a diaper having a liquid permeable topsheet 22, a liquid impermeable backsheet 24, and liquid retentive absorbent members 26, 26' interposed between the topsheet and backsheet. The absorbent members 26' are disposed in series in the direction from the rear portion, through the crotch portion, to the front portion of the diaper (Figure 1). The absorbent members are arranged such that a gap, which extends in a width direction of the article is produced between any adjacent two of the absorbent members when the article is stretched flat.

Osborn does not disclose elastic members or gathers disposed on both sides of the series of absorbent members. Datta et al. discloses an absorbent pad having

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gathers 40 arranged on the longitudinal side edges of the absorbent for the benefit of providing improved leakage performance and comfort (Abstract; col. 2, lines 17-21). It would have been obvious to one having ordinary skill in the art to modify the pad of Osborn with the gathers of Datta for the benefits Datta discloses.

Osborn/Datta discloses elastics 46 disposed in its stretched state on both sides of the series of absorbent members (Figure 11; col. 11, lines 51-59). The gathers covers an areas of the topsheet inward and outward about each of the longer side edges of the topsheet (Figure 11). The fixed end of the gathers depicts a wavy line and part of the fixed end depicts a projection toward the width wise middle of the article in the vicinity of the facing corners of any adjacent two of the absorbent members (Figure 11). The part of the fixed end intrudes between any adjacent two absorbent members in that the fixed part is attached to the longitudinal edges of the absorbent which is between any two adjacent members of the absorbent. The limitation of the absorbent members coming into close contact with each other when worn is directed to an intended use of the article. Intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). If the prior art structure is capable of performing the intended use, then it meets the claim limitations.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III USPN 5484430 in view of Datta et al. USPN 6315765 as applied to claim 1 and

further in view of Erdman US 20030093045. Osborn/Datta discloses the present invention substantially as claimed. Osborn/Datta discloses the absorbent members comprises a fiber aggregate and/or superabsorbent polymer (Osborn col. 5, lines 42-38). Osborn/Datta discloses a sheet of nonwoven fabric (Osborn col. 4, lines 56-65, col. 4, lines 10-19) which bridges the absorbent members. Osborn/Datta disclose the nonwoven comprises a surfactant (Osborn col. 4, lines 3-9). However, Osborn/Datta does not disclose the nonwoven is selectively hydrophilic. Erdman discloses an absorbent article having a selectively-permeable topsheet with hydrophilic zones for the benefit of providing leakage protection by addressing the lateral leakage of liquids from absorbent articles (paragraphs 0024,0025,0027,0028, 0040). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nonwoven cover sheet of Osborn/Datta to be selectively hydrophilic for the benefits Erdman teaches.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

April 23 2007